

Office of Chief Counsel
Internal Revenue Service

memorandum

CC:MSR:ILD:CHI:TL-N-3853-99
JPJankowski

date: September 7, 1999

to: Chief, Examination Division, Illinois District
[REDACTED]

from: District Counsel, Illinois District

subject: [REDACTED] as Successor by Merger to [REDACTED]

Request for Advice and Assistance

The purpose of this memorandum is to respond to your original request for assistance relating to the proper wording to be used in the preparation of one or more Consent(s) To Extend the Time to Assess Tax (Form 872), for the above-noted [REDACTED] Large Case taxpayer.

We have formally coordinated this same matter with the National Office of Chief Counsel (Field Service). As you know, these matters arise from the Illinois District Director's ongoing [REDACTED] Large Case examination of [REDACTED] and the related consolidated subsidiaries for the fiscal tax periods ending [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED]. (The Illinois District is also simultaneously conducting a separate [REDACTED] Large Case examination of [REDACTED] at the current time.) The assistance provided by the undersigned is in accordance with the Large Case Coordination Procedures, for all significant advice provided in non-docketed large cases. The undersigned is currently assigned to provide Examination with assistance on this case under the Attorney-Advisor Program.

In response to our request for Field Service assistance, we have been advised (Mr. Charles M. Levy; CC:DOM:CORP) that the following language is appropriate for your use on Form(s) 872, under the circumstances:

"[REDACTED] (EIN: [REDACTED])
[REDACTED], successor by merger to [REDACTED]
[REDACTED] (EIN: [REDACTED]) and
as agent for the former [REDACTED]
[REDACTED]. *"

At the bottom of page 1 of Form 872, next to a reciprocal to the above-noted asterisk, state:

" * With respect to the consolidated tax liability of [REDACTED] (EIN: [REDACTED]) [REDACTED] for the fiscal years ended [REDACTED], [REDACTED] and [REDACTED]. "

Should you have any questions regarding this memorandum, our advice, or any other matters, please contact the undersigned at (312) 886-9225, Extension 319.

RICHARD A. WITKOWSKI
District Counsel

By: _____
JOHN P. JANKOWSKI
Special Litigation Assistant

cc: (without attachments)
Assistant Regional Counsel (TL), Midstates Region
James C. Lanning, Assistant Regional Counsel (LC), Chicago
Larry K.J. Patterson, Illinois District Team Coordinator
Al Kapp, Illinois District Team Coordinator

Office of Chief Counsel
Internal Revenue Service

memorandum

CC:MSR:ILD:CHI:TL-N-3853-99
JPJankowski

date: August 27, 1999

to: Assistant Chief Counsel (Field Service) CC:DOM:FS

from: District Counsel, Illinois District

subject: [REDACTED] as Successor by Merger to [REDACTED]
[REDACTED]
Request for Informal Advice and Assistance

The purpose of this memorandum is to request your assistance relating to the proper wording to be used in the preparation of one or more Consent(s) To Extend the Time to Assess Tax (Form 872), for the above-noted [REDACTED] Large Case taxpayer.

We have not previously coordinated these same post-merger matters with your office. These matters arise from the Illinois District Director's ongoing [REDACTED] Large Case examination of [REDACTED] and the related [REDACTED] for the fiscal tax periods ending [REDACTED] and [REDACTED] (The Illinois District is also simultaneously conducting a separate [REDACTED] Large Case examination of [REDACTED] at the current time.) The assistance provided by the undersigned is in accordance with the Large Case Coordination Procedures, for all significant advice provided in non-docketed large cases. The undersigned is currently assigned to provide Examination with assistance on this case under the Attorney-Advisor Program.

We recently received a request from Examination, wherein they requested expedited assistance in formulating the appropriate wording to be used on new consents (Form 872) to extend the statute of limitations for each of the above-noted fiscal tax periods. The Case Manager has proposed to use the following wording:

" [REDACTED]
[REDACTED] (EIN: [REDACTED])
successor by merger to [REDACTED]
[REDACTED] (EIN: [REDACTED]) *"

At the bottom of page 1 of Form 872, next to a reciprocal to the above-noted asterisk, state:

" * This with respect to the tax liability of [REDACTED]
[REDACTED] for the fiscal years ended [REDACTED]
[REDACTED] and [REDACTED]."

We believe that the following language and format are preferable:

" [REDACTED] (EIN: [REDACTED])
[REDACTED], successor by merger to [REDACTED]
[REDACTED] (EIN: [REDACTED]) and
as agent for the former [REDACTED]
[REDACTED]. *"

At the bottom of page 1 of Form 872, next to a reciprocal to the above-noted asterisk, state:

" * With respect to the consolidated tax liability of [REDACTED]
(EIN: [REDACTED]) [REDACTED] for the
fiscal years ended [REDACTED], [REDACTED]
[REDACTED], [REDACTED], [REDACTED] and
[REDACTED]."

The facts, as we understand them, indicate that [REDACTED]
[REDACTED] was incorporated in [REDACTED]
under the laws of the State of Illinois. For Federal Income Tax purposes, [REDACTED] has filed timely consolidated U.S. Corporation Income Tax Returns (Forms 1120) for all relevant fiscal tax periods. [REDACTED] was incorporated in [REDACTED] under the laws of the State of Delaware. Similarly, [REDACTED] has filed timely consolidated U.S. Corporation Income Tax Returns for all relevant calendar year tax periods.

On or about [REDACTED], [REDACTED] acquired control of [REDACTED] and its subsidiaries. At that time, [REDACTED] became a wholly owned subsidiary of [REDACTED]. In a Memorandum dated June 4, 1998, this office previously advised Examination that [REDACTED] continued to act as agent and parent of the formerly independent [REDACTED] consolidated group, for purposes of solicitation of a Form 872.

Subsequently, on or about [REDACTED] by consent of the Board(s) of Directors, [REDACTED] merged [REDACTED] with and into [REDACTED] with [REDACTED] the surviving entity. Accordingly, [REDACTED] no longer exists and [REDACTED] has assumed all of [REDACTED]'s liabilities and

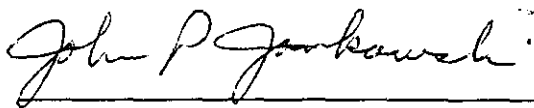
obligations. A "Certificate of Ownership and Merger, Merging [REDACTED] into [REDACTED]" was filed with the Secretary of State of Delaware on [REDACTED] and subsequently with the State of Illinois.

In the interest of expediting this matter, we will not reiterate additional underlying facts at this time. Rather, we incorporate by reference the items attached to this memorandum for your use. We have attached the following documents to assist you in your review of our request:

1. Copy of "Certificate of Ownership and Merger, Merging [REDACTED] into [REDACTED]", filed with the Secretary of State of Delaware on [REDACTED].
2. Copy of [REDACTED] letter from [REDACTED] to Examination, regarding [REDACTED]'s acquisition of [REDACTED] on [REDACTED].
3. Our June 4, 1998 Memorandum to Examination providing informal advice regarding the planned solicitation of a Form 872 from [REDACTED].
4. Copies of page 1 of the Forms 1120 filed by [REDACTED] for each of the fiscal years ending on [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and a short period ended [REDACTED].

In the interim, should you have any questions regarding this memorandum, the attachments, or our request, please contact the undersigned at (312) 886-9225, Extension 319.

RICHARD A. WITKOWSKI
District Counsel

By: 
JOHN P. JANKOWSKI
Special Litigation Assistant

Attachments
As Stated

cc: (without attachments)
Assistant Regional Counsel (TL), Midstates Region
James C. Lanning, Assistant Regional Counsel (LC), Chicago
[REDACTED]
Larry K.J. Patterson, Illinois District Team Coordinator